

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 576

Introduced by Assembly Member Dickinson

February 16, 2011

An act to add ~~Section 85215~~ *Sections 85035.5, 85215, and 85216* to the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 576, as amended, Dickinson. Delta Stewardship Council: ~~planning and administration; fee~~. *Delta Plan: financing*.

The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, and requires the council, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Sacramento-San Joaquin Delta (Delta Plan), meeting specified requirements.

~~This bill would require the council, by March 31, 2012, to adopt a fee on water supply contractors of the State Water Project and the federal Central Valley Project to fund a portion of the planning and administrative costs of the council.~~

This bill would require the council to develop a long-term finance plan to pay for the costs of implementing the Delta Plan by January 1, 2013. The bill would prohibit the council from adopting new fees for these purposes unless authorized by statute. The bill would authorize the council, before adopting and collecting long-term revenue sources, to seek to obtain early funding contributions from entities that may benefit from implementation of the Delta Plan and to track those contributions to provide credit against future funding requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*
3 *(a) The Sacramento-San Joaquin Delta is a critically important*
4 *natural resource for California and the nation and serves*
5 *Californians as both the most valuable estuary on the west coast*
6 *of North America and the hub of the California water system.*
7 *(b) The Sacramento-San Joaquin Delta watershed and water*
8 *infrastructure are in crisis.*
9 *(c) In 2009, the Legislature and Governor adopted a*
10 *comprehensive water package that included new policies and*
11 *programs to address the crisis.*
12 *(d) Senate Bill 1 of the 2009–10 Seventh Extraordinary Session*
13 *adopted the Sacramento-San Joaquin Delta Reform Act of 2009,*
14 *which created the Delta Stewardship Council and directed the*
15 *council to develop a comprehensive Delta Plan to address the*
16 *coequal goals of providing a more reliable water supply for*
17 *California and protecting, restoring, and enhancing the Delta*
18 *ecosystem. Senate Bill 1 also stated that the coequal goals shall*
19 *be achieved in a manner that protects and enhances the unique*
20 *cultural, recreational, natural resource, and agricultural values*
21 *of the Delta as an evolving place.*
22 *(e) Long-term funding is needed to support the implementation*
23 *of the Delta Plan.*
24 *(f) A finance plan for implementing the Delta Plan should*
25 *recognize that public and private interests should contribute in*
26 *proportion to the benefits received or negative impacts caused.*
27 *SEC. 2. Section 85053.5 is added to the Water Code, to read:*
28 *85053.5. (a) “Beneficiary pays principle” means the allocation*
29 *of costs to public or private entities in approximate proportion to*
30 *benefits received from implementation of measures in the Delta*
31 *Plan and in approximate proportion to negative impacts caused*
32 *to the Delta and the Delta watershed that the Delta Plan seeks to*
33 *address.*
34 *(b) For purposes of the analysis required pursuant to subdivision*
35 *(d) of Section 85215 and in recognition of the Delta as an*

1 *important national asset, “beneficiary pays principle” additionally*
2 *means that costs of measures designed to improve the Delta*
3 *ecosystem should generally be borne by state and federal*
4 *taxpayers, except that mitigation for negative impacts on the Delta*
5 *ecosystem resulting from past, present, and future exports of water*
6 *from the Delta should be borne by those directly benefiting from*
7 *those exports, and any costs of measures designed to improve*
8 *reliability of water supply should be borne by those directly*
9 *benefiting from that water supply.*

10 *SEC. 3. Section 85215 is added to the Water Code, to read:*

11 *85215. (a) By January 1, 2013, the council shall develop a*
12 *long-term finance plan to pay for the costs of implementing the*
13 *Delta Plan that includes all projects, programs, and related*
14 *administrative costs identified in the Delta Plan. The finance plan*
15 *shall be developed through an economic, scientific, and*
16 *engineering based, transparent, and open process. The council*
17 *shall distribute a draft plan for public review and comment at least*
18 *six months prior to the approval of the final long-term finance*
19 *plan.*

20 *(b) The finance plan shall include, but not be limited to, all of*
21 *the following information:*

22 *(1) Annual expenditure plans for implementation of the Delta*
23 *Plan for at least each of the five years following the adoption of*
24 *the Delta Plan.*

25 *(2) An estimate of all existing state and federal funds, including*
26 *General Fund moneys, special fund moneys, fees, and other sources*
27 *of revenue reasonably expected to be available to support*
28 *expenditures.*

29 *(3) An evaluation of existing programs and projects to determine*
30 *if funding could be redirected to the Delta Plan, including, but not*
31 *limited to, funding previously directed at the CALFED Bay Delta*
32 *Program.*

33 *(4) A definition of public and private benefits.*

34 *(5) An analysis and description of the basis for allocating*
35 *program and project costs among private and public entities.*

36 *(6) An enforceable mechanism that ensures that fees, contractual*
37 *payments, cost-share agreements, and contributions are expended*
38 *as intended, and not diverted to other purposes.*

1 (c) *The finance plan shall recognize and reflect the broad public*
2 *benefit to the state and nation of restoring and enhancing the Delta*
3 *ecosystem.*

4 (d) *The finance plan shall identify and evaluate, pursuant to the*
5 *beneficiary pays principle, the benefits to, and negative impacts*
6 *caused by, all entities, including, but not limited to, all of the*
7 *following:*

8 (1) *The public.*

9 (2) *Urban and agricultural water users including, but not limited*
10 *to, state and federal water contractors that do any of the following:*

11 (A) *Divert water from the Delta for export to areas downstream*
12 *of the Delta.*

13 (B) *Divert water from the Delta watershed for use outside of*
14 *the Delta watershed.*

15 (C) *Divert water for use within the Delta or the Delta watershed.*

16 (3) *Delta interests benefiting from flood protection.*

17 (4) *Delta recreational interests.*

18 (5) *Dischargers into the Delta and the Delta watershed,*
19 *including, but not limited to, wastewater dischargers and sources*
20 *of invasive species.*

21 (6) *Commercial fishing interests within and outside of the Delta.*

22 (7) *Other interests with infrastructure or operations in the Delta,*
23 *including business and transportation entities.*

24 (e) *The finance plan shall recognize that mitigation costs for*
25 *projects included in the Delta Plan are the responsibility of the*
26 *project beneficiaries. For purposes of this subdivision, “mitigation*
27 *costs” include, but are not limited to, physical mitigation costs,*
28 *and mitigation for tax, revenue, or other local economic losses to*
29 *private property owners and to public entities within the Delta.*

30 (f) *The finance plan shall allocate costs based on the beneficiary*
31 *pays principle and pursuant to the analysis required in subdivision*
32 *(d). Financing proposals to pay for public benefits or impacts shall*
33 *include, but not be limited to, new and existing state and federal*
34 *funding including proceeds from the sale of bonds. Financing*
35 *proposals to pay for private benefits or negative impacts shall*
36 *include, but not be limited to, new and existing fees, contractual*
37 *payments, and cost-share agreements. To the extent existing fees,*
38 *contractual payments, cost-share agreements, and other*
39 *contributions support programs and projects included in the Delta*
40 *Plan, the finance plan developed by the council shall identify which*

1 of these existing contributions are eligible to be credited against
2 future funding requirements. The council shall develop a baseline
3 for the purposes of determining credit.

4 (g) The council shall review the finance plan at least once every
5 five years and update the plan as the council deems appropriate.

6 (h) The council shall not adopt new fees pursuant to this section
7 unless a statute is enacted that authorizes the council to adopt a
8 fee pursuant to this section.

9 SEC. 4. Section 85216 is added to the Water Code, to read:

10 85216. (a) Prior to the establishment or collection of a
11 long-term revenue source pursuant to Section 85215, the council
12 may seek to obtain early funding contributions from groups that
13 may benefit from the implementation of the Delta Plan, for
14 purposes of funding the council's planning and administrative
15 activities related to the preparation of the Delta Plan.

16 (b) The council shall track early funding contributions and shall
17 provide credit for those contributions against future funding
18 requirements.

19 ~~SECTION 1. Section 85215 is added to the Water Code, to~~
20 ~~read:~~

21 ~~85215. On or before March 31, 2012, the council shall adopt~~
22 ~~a fee on water supply contractors of the State Water Project and~~
23 ~~the federal Central Valley Project to fund a portion of the planning~~
24 ~~and administrative costs of the council.~~